

1 H.216

2 Introduced by Representatives McCormack of Burlington, Clarkson of  
3 Woodstock, Conquest of Newbury, Purvis of Colchester, and  
4 Wright of Burlington

5 Referred to Committee on

6 Date:

7 Subject: Labor; employer's liability and workers' compensation

8 Statement of purpose of bill as introduced: This bill proposes to amend the test  
9 used to determine whether the sole proprietor or partner owner of an  
10 unincorporated business is an employee for purposes of workers'  
11 compensation.

12 An act relating to workers' compensation

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 21 V.S.A. § 601 is amended as follows:

15 § 601. DEFINITIONS

16 Unless the context otherwise requires, words and phrases used in this  
17 chapter shall be construed as follows:

18 \* \* \*

19 (14) "Worker" and "employee" means an individual who has entered  
20 into the employment of, or works under contract of service or apprenticeship

1 with, an employer. Any reference to a worker who has died as the result of a  
2 work injury shall include a reference to the worker's dependents, and any  
3 reference to a worker who is a minor or incompetent shall include a reference  
4 to the minor's committee, guardian, or next friend. The term "worker" or  
5 "employee" does not include:

6 \* \* \*

7 (F) The sole proprietor or partner owner or partner owners of an  
8 unincorporated business provided:

9 (i) ~~The individual performs work that is distinct and separate from~~  
10 ~~that of the person with whom the individual contracts.~~

11 ~~(ii)~~ The individual controls the means and manner of the work  
12 performed.

13 ~~(iii)~~(ii) The individual holds him or herself out as in business for  
14 him or herself.

15 ~~(iv)~~(iii) The individual holds him or herself out for work for the  
16 general public and does not perform work exclusively for or with another  
17 person.

18 ~~(v)~~(iv) The individual is not treated as an employee for purposes  
19 of income or employment taxation with regard to the work performed.

20 ~~(vi)~~(v) The services are performed pursuant to a written agreement  
21 or contract between the individual and another person, and the written

1 agreement or contract explicitly states that the individual is not considered to  
2 be an employee under this chapter, is working independently, has no  
3 employees, and has not contracted with other independent contractors. The  
4 written contract or agreement shall also include information regarding the right  
5 of the individual to purchase workers' compensation insurance coverage and  
6 the individual's election not to purchase that coverage. However, if the  
7 individual who is party to the agreement or contract under this subdivision is  
8 found to have employees, those employees may file a claim for benefits under  
9 this chapter against either or both parties to the agreement.

10 \* \* \*

11 Sec. 2. EFFECTIVE DATE

12 This act shall take effect on July 1, 2015.